

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LAMAR DONNELL KIRKLAND,

Petitioner,

v.

RAUL LOPEZ, Warden,

Respondent.

Case No.: 10-CV-03050-LHK

ORDER DISMISSING CASE WITHOUT
PREJUDICE

On October 13, 2010, the Court denied without prejudice Petitioner's request to stay the instant habeas action during the pendency of Petitioner's state habeas proceeding. The Court's order allowed Petitioner 45 days to either 1) file a renewed motion addressing the standard for granting a stay, or 2) file an amended petition containing only exhausted claims. The Court stated that if Petitioner failed to file a renewed motion or an amended petition within 45 days, the action would be dismissed without prejudice. Petitioner has not filed a renewed motion or an amended petition, nor has he requested an extension of time to do so. Accordingly, the Court DISMISSES the petition without prejudice for failure to exhaust state remedies. The clerk shall close the file.

IT IS SO ORDERED.

Dated: December 9, 2010


LUCY H. KOH
United States District Judge